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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,157	09/04/2001	Stefan Reh	076326-0194	9080

22428 7590 11/03/2004

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,157

Applicant(s)

REH ET AL.

Examiner

Omar Flores-Sánchez

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on 7/23/04.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer (5,744,776) in view of Foreign Patent no. (DE 29813528UI).

Bauer discloses a method of forming a weakening area in an airbag cover substantially as claimed comprising: providing a cutting support (Fig. 1); providing a cutter 18; placing the airbag with the decorative layer 118 facing down on the support; and cutting a tear line of a predetermined pattern (Fig.9-16). Bauer does teach using blade (col. 2, lines 50-53), but does not show it in the figures. Examiner takes Official Notice that the use of a knife/blade is old and well known in the art. However, Foreign Patent's 528U1 teaches the use of a blade 10 for the purpose of reducing deformations and stresses in the leather structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bauer's cutter by providing the blade as taught by Foreign Patent's 528U1 in order to reduce deformations and stresses in the leather structure.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer (5,744,776) in view of Foreign Patent no. (DE 29813528UI) as applied to claim 1 above, and further in view of Towler et al. (foreign patent no. 2, 205, 284).

The modified device of Bauer discloses the method of forming a weakening area in an airbag cover substantially as claimed except for applying a predetermined force to the area of the cover and maintaining the cover against the support with a vacuum. However, Towler teaches the step of applying a predetermined force to the area of the cover and maintaining the cover against the support with a vacuum for the purpose of precisely positioning and supporting the workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bauer's cutting support by providing the vacuum as taught by Towler in order to obtain a precise position and support for the cover.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Bauer (5,744,776) in view of Foreign Patent no. (DE 29813528UI) and Pilkington (4, 9020, 495).

Bauer discloses a method of forming a weakening area in an airbag cover substantially as claimed comprising: providing a cutting support (Fig. 1); providing a cutter 18; placing the airbag with the decorative layer 118 facing down on the support; and cutting a tear line of a predetermined pattern (Fig.9-16). Bauer does not show a blade and an oscillating cutter.

However, Foreign Patent's 528U1 teaches the use of a blade 10 for the purpose of reducing

deformations and stresses in the leather structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bauer's cutter by providing the blade as taught by Foreign Patent's 528U1 in order to reduce deformations and stresses in the leather structure.

Regarding the oscillating cutter, Pilkington teaches the use of an oscillating cutter 40 for the purpose of obtaining a better cut of the product. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bauer by providing an oscillating cutter in order to obtain a clean cut.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer (5,744,776) in view of Foreign Patent no. (DE 29813528UI) as applied to claim 15 above, and further in view of Foreign Patent no. DE 4424686 A1.

The modified device of Bauer discloses the method of forming a weakening area in an airbag cover substantially as claimed except for an end having a semicircular shape. However, Foreign Patent '686 teaches the use of an end having a semicircular shape 18, 20 for the purpose of preventing the tearing action that occurs along the breaking line from being extended beyond the end of the breaking line. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bauer's device by providing the end having a semicircular shape as taught by foreign patent '686 in order to prevent the tearing action which occurs along the breaking line from being extended beyond the end of the breaking line.

Response to Arguments

7. Applicant's arguments have been fully considered but they are not persuasive. Another example that a knife is old and well known in the art, it is Andrea Robin et al. (GB 2276354 A) using a hot knife, for the purpose of forming breaking lines in an airbag cover. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine can be found in Bauer, col.2, lines 50-53, where the use of a mechanical cutting device is disclosed. Also, Bauer discloses that the use of a blade is old and well known in the art by referring to Pat. No. 5,082,310, where blade 72 is used to cut decorative layer. The fact that Bauer's device prefers a laser instead of a blade is irrelevant because it clearly teaches the use of blade for cutting airbag cover and the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. See MPEP 2123.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nusshör is cited to show related device.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ofs
November 1, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER